

Senate File 2378 - Introduced

SENATE FILE 2378

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2122)

A BILL FOR

1 An Act relating to beverages, including the barrel tax
2 and the acceptance of beverage containers for refund
3 value, providing penalties, and including effective date
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.136, subsection 1, Code 2022, is
2 amended to read as follows:

3 1. In addition to the annual permit fee to be paid by
4 all class "A" beer permittees under this chapter there shall
5 be levied and collected from the permittees on all beer
6 manufactured for sale or sold in this state at wholesale and
7 on all beer imported into this state for sale at wholesale and
8 sold in this state at wholesale, and from special class "A"
9 beer permittees on all beer manufactured for consumption on the
10 premises and on all beer sold at retail at the manufacturing
11 premises for consumption off the premises pursuant to section
12 123.130, subsection 4, a tax of ~~five and eighty-nine~~ four and
13 three hundredths dollars for every barrel containing thirty-one
14 gallons, and at a like rate for any other quantity or for the
15 fractional part of a barrel. However, no tax shall be levied
16 or collected on beer shipped outside this state by a class "A"
17 beer permittee or special class "A" beer permittee or on beer
18 sold to a class "A" beer permittee by a special class "A" beer
19 permittee or another class "A" beer permittee.

20 Sec. 2. Section 455C.1, subsections 1 and 6, Code 2022, are
21 amended to read as follows:

22 1. "*Beverage*" means wine as defined in section 123.3,
23 subsection 54, alcoholic liquor as defined in section 123.3,
24 subsection 5, beer as defined in section 123.3, subsection
25 7, high alcoholic content beer as defined in section 123.3,
26 subsection 22, canned cocktail as defined in section 123.3,
27 subsection 11, mineral water, soda water, and similar
28 carbonated soft drinks in liquid form and intended for human
29 consumption.

30 6. "*Dealer agent*" means a person who solicits or picks
31 up empty beverage containers from a participating dealer for
32 the purpose of returning the empty beverage containers to a
33 distributor or manufacturer.

34 Sec. 3. Section 455C.1, Code 2022, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 12A. "*Participating dealer*" means a dealer
2 who accepts the return of empty beverage containers from a
3 consumer.

4 Sec. 4. Section 455C.2, Code 2022, is amended to read as
5 follows:

6 **455C.2 Refund values.**

7 1. A refund value of ~~not less than~~ five cents shall be paid
8 by the consumer on each beverage container sold in this state
9 by a dealer for consumption off the premises. Upon return of
10 the empty beverage container upon which a refund value has
11 been paid to the a participating dealer or person operating
12 a redemption center and acceptance of the empty beverage
13 container by the participating dealer or person operating a
14 redemption center, the participating dealer or person operating
15 a redemption center shall return the amount of the refund value
16 to the consumer within a reasonable time.

17 2. In addition to the refund value provided in subsection
18 1 of ~~this section~~, a dealer, or person operating a redemption
19 center who redeems empty beverage containers or a dealer agent
20 shall be reimbursed by the distributor required to accept
21 the empty beverage containers under section 455C.3 shall
22 provide reimbursement in an amount which that is one cent per
23 container, except that the reimbursement amount shall be three
24 cents per container for empty beverage containers accepted by a
25 redemption center. A dealer, dealer agent, or person operating
26 a redemption center may compact empty metal beverage containers
27 with the approval of the distributor required to accept the
28 containers.

29 Sec. 5. Section 455C.3, subsections 1, 2, and 4, Code 2022,
30 are amended to read as follows:

31 1. A participating dealer shall not refuse to accept from a
32 consumer any empty beverage container of the kind, size, and
33 brand sold by the participating dealer, or refuse to pay to the
34 consumer the refund value of a beverage container as provided
35 under section 455C.2.

1 2. A distributor shall accept and pick up from a
 2 participating dealer served by the distributor or a redemption
 3 center for a dealer served by the distributor at least weekly,
 4 or when the distributor delivers the beverage product if
 5 deliveries are less frequent than weekly, any empty beverage
 6 container of the kind, size, and brand sold by the distributor,
 7 and shall pay to the participating dealer or ~~person operating~~
 8 a redemption center the refund value of a beverage container
 9 and the reimbursement as provided under [section 455C.2](#) within
 10 one week following pickup of the containers or when the
 11 participating dealer or redemption center normally pays the
 12 distributor for the deposit on beverage products purchased from
 13 the distributor if less frequent than weekly. A distributor
 14 or employee or agent of a distributor is not in violation
 15 of [this subsection](#) if a redemption center is closed when the
 16 distributor attempts to make a regular delivery or a regular
 17 pickup of empty beverage containers. [This subsection](#) does
 18 not apply to a distributor selling alcoholic liquor to the
 19 alcoholic beverages division of the department of commerce.

20 4. A distributor shall accept from a dealer agent any empty
 21 beverage container of the kind, size, and brand sold by the
 22 distributor and ~~which~~ that was picked up by the dealer agent
 23 from a participating dealer within the geographic territory
 24 served by the distributor and the distributor shall pay the
 25 dealer agent the refund value of the empty beverage container
 26 and the reimbursement as provided in [section 455C.2](#).

27 Sec. 6. Section 455C.4, Code 2022, is amended to read as
 28 follows:

29 **455C.4 Refusal to accept containers.**

30 1. Except as provided in [section 455C.5, subsection 3](#),
 31 a participating dealer, ~~a person operating a~~ or redemption
 32 center, ~~a distributor or a manufacturer~~ may refuse to accept
 33 any empty beverage container ~~which~~ that does not have stated on
 34 it a refund value as provided under [section 455C.2](#).

35 2. A On and after July 1, 2023, a dealer may refuse to

1 accept and to pay the refund value of any empty beverage
2 container if the ~~place of business of the dealer and the kind~~
3 ~~and brand of empty beverage containers are included in an order~~
4 ~~of the department approving a redemption center under section~~
5 ~~455C.6~~ dealer has provided notice to the department.

6 ~~3. A dealer or a distributor may refuse to accept and to pay~~
7 ~~the refund value of an empty wine or alcoholic liquor container~~
8 ~~which is marked to indicate that it was sold by a state liquor~~
9 ~~store. The alcoholic beverages division shall not reimburse~~
10 ~~a dealer or a distributor the refund value on an empty wine or~~
11 ~~alcoholic liquor container which is marked to indicate that the~~
12 ~~container was sold by a state liquor store.~~

13 ~~4.~~ 3. A class "E" liquor control licensee may refuse to
14 accept and to pay the refund value on an empty alcoholic liquor
15 container from a participating dealer or a redemption center
16 or from a person acting on behalf of or who has received empty
17 alcoholic liquor containers from a participating dealer or a
18 redemption center.

19 ~~5.~~ 4. A manufacturer or distributor may refuse to accept
20 and to pay the refund value and reimbursement as provided in
21 section 455C.2 on any empty beverage container that was picked
22 up by a dealer agent ~~from a dealer~~ outside the geographic
23 territory served by the manufacturer or distributor.

24 Sec. 7. Section 455C.5, subsection 1, Code 2022, is amended
25 to read as follows:

26 1. Each beverage container sold or offered for sale in
27 this state by a dealer shall clearly indicate the refund value
28 of the container by embossing or by a stamp, label, or other
29 method securely affixed to the container, ~~the refund value of~~
30 ~~the container~~. The department shall specify, by rule, the
31 minimum size of the refund value indication on the beverage
32 containers and require registration of the universal product
33 code for each beverage container in a format determined by the
34 department.

35 Sec. 8. Section 455C.6, subsections 1, 2, and 5, Code 2022,

1 are amended to read as follows:

2 1. To facilitate the return of empty beverage containers
3 and to serve dealers of beverages, any person may establish a
4 redemption center, ~~subject to the approval of the department,~~
5 at which consumers may return empty beverage containers
6 and receive payment of the refund value of such beverage
7 containers.

8 2. ~~An application for approval of a~~ A person operating a
9 redemption center shall file written notice of the operation
10 of the redemption center shall be filed with the department.
11 The application notice shall state the name and address of the
12 person responsible for the establishment and operation of the
13 redemption center, ~~the kind and brand names of the beverage~~
14 ~~containers which will be accepted at the redemption center,~~
15 and the names and addresses of the dealers to be served by the
16 redemption center. The application notice shall contain such
17 other information as the director may reasonably require.

18 5. All ~~approved~~ redemption centers shall meet applicable
19 health standards.

20 Sec. 9. Section 455C.6, subsections 3 and 4, Code 2022, are
21 amended by striking the subsections.

22 Sec. 10. Section 455C.12, subsections 2 and 3, Code 2022,
23 are amended to read as follows:

24 2. A distributor who collects or attempts to collect
25 a refund value on an empty beverage container when the
26 distributor has paid the refund value on the container to a
27 participating dealer, redemption center, or consumer is guilty
28 of a fraudulent practice.

29 3. Any person who does any of the following acts is guilty
30 of a fraudulent practice:

31 a. Collects or attempts to collect the refund value on the
32 container a second time, with the knowledge that the refund
33 value has once been paid by the distributor to a participating
34 dealer, redemption center, or consumer.

35 b. Manufactures, sells, possesses, or applies a false or

1 counterfeit label or indication ~~which~~ that shows or purports to
2 show a refund value for a beverage container, with intent to
3 use the false or counterfeit label or indication.

4 *c.* Collects or attempts to collect a refund value on
5 a container with the use of a false or counterfeit label
6 or indication showing a refund value, knowing the label or
7 indication to be false or counterfeit.

8 Sec. 11. Section 455C.12, Code 2022, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 6. A person who violates any provision
11 of this chapter shall be subject to a civil penalty of two
12 thousand dollars per violation, which shall be assessed and
13 collected in the same manner as provided in section 455B.109.
14 Any civil penalty collected under this chapter shall be
15 deposited in the general fund of the state.

16 Sec. 12. NEW SECTION. **455C.12A Administrative enforcement**
17 **— compliance orders.**

18 The director may issue any order necessary to secure
19 compliance with or prevent a violation of the provisions of
20 this chapter or any rule adopted or permit or order issued
21 pursuant to this chapter. The person to whom such compliance
22 order is issued may cause to be commenced a contested case
23 within the meaning of chapter 17A by filing within thirty
24 days a notice of appeal to the commission. On appeal, the
25 commission may affirm, modify, or vacate the order of the
26 director.

27 Sec. 13. NEW SECTION. **455C.12B Judicial review.**

28 Judicial review of any order or other action of the
29 commission or director may be sought in accordance with the
30 terms of chapter 17A. Notwithstanding the terms of chapter
31 17A, petitions for judicial review may be filed in the district
32 court of the county in which the alleged offense was committed.

33 Sec. 14. NEW SECTION. **455C.12C Civil actions for compliance**
34 **— penalties.**

35 1. The attorney general, on request of the department, shall

1 institute any legal proceedings necessary to obtain compliance
2 with an order of the commission or the director, including
3 proceedings for a temporary injunction, or prosecuting any
4 person for a violation of an order of the commission or the
5 director, the provisions of this chapter, or any rules adopted
6 or permit or order issued pursuant to this chapter.

7 2. Any person who violates any order issued pursuant to
8 section 455C.12A shall be subject to a civil penalty not to
9 exceed two thousand dollars for each day of such violation.

10 Sec. 15. Section 455C.13, Code 2022, is amended to read as
11 follows:

12 **455C.13 ~~Distributors'~~ Collection and disposal agreements**
13 **authorized.**

14 1. A distributor, dealer, or redemption center may enter
15 into a contract or agreement with any other distributor,
16 manufacturer, or person for the purpose of collecting or ~~paying~~
17 ~~the refund value on, or disposing of,~~ beverage containers as
18 provided in this chapter.

19 2. For purposes of this chapter, any contracts entered into
20 pursuant to this section for the collection or disposal of
21 empty beverage containers shall not be deemed to interfere with
22 the refund value pursuant to section 455C.2.

23 Sec. 16. Section 455C.16, Code 2022, is amended to read as
24 follows:

25 **455C.16 Beverage containers — disposal at sanitary landfill**
26 **prohibited.**

27 ~~Beginning July 1, 1990, the~~ The final disposal of beverage
28 containers ~~by a dealer, distributor, or manufacturer, or~~
29 ~~person operating a redemption center, in a sanitary landfill,~~
30 ~~is prohibited. Beginning September 1, 1992, including the~~
31 final disposal of beverage containers that used to contain
32 alcoholic liquor as defined in section 123.3, subsection 5,
33 by a participating dealer, distributor, ~~or~~ manufacturer, or
34 ~~person operating a redemption center in a sanitary landfill,~~
35 is prohibited.

1 Sec. 17. REPEAL. Sections 455C.7, 455C.10, and 455C.14,
2 Code 2022, are repealed.

3 Sec. 18. EFFECTIVE DATE. The section of this Act amending
4 section 123.136 takes effect July 1, 2023.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 Under current law, a consumer may return an empty beverage
9 container upon which a 5-cent refund value has been paid to a
10 dealer or a redemption center. When a distributor collects
11 empty beverage containers from a dealer, dealer agent, or
12 redemption center, the distributor reimburses the dealer,
13 dealer agent, or redemption center the refund value plus a
14 1-cent handling fee for each empty beverage container. Current
15 law also allows any person to establish a redemption center
16 that serves a dealer if it is approved by the department of
17 natural resources. Any person may also establish an unapproved
18 redemption center.

19 Effective July 1, 2023, this bill lowers the barrel tax on
20 beer from \$5.89 to \$4.03 for every barrel containing 31 gallons
21 of beer.

22 The bill allows a participating dealer or redemption center
23 to return refund value to a consumer within a reasonable
24 time. The bill increases the handling fee to 3 cents when
25 paid to a redemption center. The bill provides that on and
26 after July 1, 2023, a dealer may choose to not accept beverage
27 containers if the dealer has provided notice to the department
28 of natural resources (DNR). The bill does not require a
29 person to receive approval from DNR to operate a redemption
30 center but does require a person operating a redemption center
31 to provide notice to DNR. The bill requires DNR to require
32 by rule registration of the universal product code for each
33 beverage container in a format required by DNR. The bill also
34 provides for civil enforcement by DNR and the attorney general,
35 including the imposition of civil penalties up to \$2,000 per

1 day.

2 The bill makes numerous changes throughout Code chapter 455C
3 to change instances of "dealer" to "participating dealer",
4 remove obsolete language, and stylistically and grammatically
5 update the Code chapter.